

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA

v.

JUSTIN JAKE NEWMAN

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CRIMINAL NO. 6:07-CR-82-11

**REPORT & RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On January 3, 2012, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant Justin Jake Newman. The government was represented by Richard Moore, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by court-appointed federal defender Ken Hawk.

Defendant originally pled guilty to the offense of Conspiracy to Possess with Intent to Distribute and Distribution of at Least 10 Grams but Less than 20 Grams of a Mixture of Substance Containing a Detectable Amount of Methamphetamine in Violation of 21 U.S.C. § 846, a Class C felony. The offense carried a statutory maximum imprisonment term of 20 years. The United States Sentencing Guideline range, based on a total offense level of 15 and a criminal history category of III, was 24 to 30 months. On June 19, 2008, District Judge Leonard Davis sentenced Defendant to 24 months imprisonment followed by 3 years supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure and drug aftercare. On June 22, 2009, Defendant completed the term of imprisonment and began his term of supervised release.

Under the terms of supervised release, Defendant was prohibited, in relevant part, from committing another federal, state or local crime. In its petition, the government alleges that Defendant violated his term of supervised release when he was arrested by officers for the offenses

of Evading Arrest/Detention with a Vehicle; Reckless Driving; Failure to Identify-Giving False/Fictitious Information; Driving While License Invalid; Expired Registration and No Liability Insurance.

If the Court finds by a preponderance of the evidence that Defendant violated the conditions of supervised release by committing the offense of Evading Arrest/Detention with a Vehicle, Defendant will have committed a Grade B violation. U.S.S.G. § 7B1.1(a). The Court may then revoke supervised release. U.S.S.G. § 7B1.3(a)(1). Considering Defendant's criminal history category of III, the Guideline imprisonment range for a Grade B violation is 8 to 14 months. U.S.S.G. 7B1.4(a).

If the Court finds by a preponderance of the evidence that Defendant violated the conditions of supervised release by committing the offense of Reckless Driving; Failure to Identify - Giving False/Fictitious Information; Driving While License Invalid; Expired Registration; or No Liability Insurance, Defendant will have committed a Grade C violation. U.S.S.G. § 7B1.1(a). The Court may then revoke supervised release or modify the terms of supervision. U.S.S.G. § 7B1.3(a)(2). Considering Defendant's criminal history category of III, the Guideline imprisonment range for a Grade C violation is 5 to 11 months. U.S.S.G. 7B1.4(a).

At the hearing, the parties indicated they had come to an agreement to resolve the petition whereby Defendant would plead true to the government's petition. In exchange, the government agreed to recommend that Defendant serve 5 months plus 87 days of unserved community confinement for a total of 5 months and 87 days imprisonment with no supervised release to follow.

Pursuant to the Sentencing Reform Act of 1984, and the agreement of the parties, the Court **RECOMMENDS** that Justin Jake Newman be committed to the custody of the Bureau of Prisons

for a term of imprisonment of 5 months and 87 days, with no supervised release to follow. The Court further **RECOMMENDS** that the place of confinement be FCI Seagoville, Seagoville, Texas.

Defendant has waived his right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to District Judge Leonard Davis for adoption immediately upon issuance.

So ORDERED and SIGNED this 3rd day of January, 2012.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE